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August 11, 1993

**HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

RECEIVED  
AUG 11 1993  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: GEN Docket No. 90-314  
ET Docket No. 92-100  
Ex Parte Presentation

Dear Mr. Caton:

Pursuant to Section 1.1206 of the Commission's rules, this is to advise you that, on behalf of PCS Action, Inc., a coalition of companies to promote the deployment of PCS services, I submitted today the following documents to Chairman James H. Quello; Commissioner Ervin S. Duggan; Commissioner Andrew C. Barrett; Brian F. Fontes, Chief of Staff to Chairman Quello; Byron F. Marchant, Senior Legal Advisor to Commissioner Barrett; Randall S. Coleman, Legal Advisor to Commissioner Duggan; Robert M. Pepper, Chief, Office of Plans & Policy; Thomas P. Stanley, Chief Engineer, Office of Engineering & Technology; and John Cimko, Jr., Chief, Mobile Services Division, Common Carrier Bureau:

- PCS Action's Position on License Allocation;
- A memorandum concerning eligibility to bid for PCS licenses; and
- A New York Times article from August 9, 1993 entitled, "U.S. Could Win Big in Auction of Airwaves."

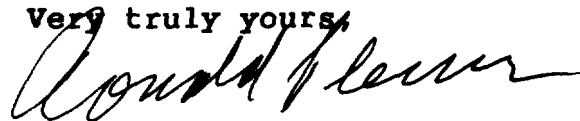
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Mr. William F. Caton  
August 11, 1993  
Page 2

In accordance with the Commission's rules, I am hereby submitting one original and one copy of each of these documents for each of the above-referenced proceedings.

Very truly yours,



Ronald L. Plesser

cc: Chairman James H. Quello  
Commissioner Ervin S. Duggan  
Commissioner Andrew C. Barrett  
Mr. Brian F. Fontes  
Mr. Byron F. Marchant  
Mr. Randall S. Coleman  
Mr. Robert M. Pepper  
Mr. Thomas P. Stanley  
Mr. John Cimko, Jr.

Enclosures

# **PCS ACTION, INC.**

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## **POSITION ON LICENSE ALLOCATION**

PCS Action consistently has held that the Federal Communications Commission must issue PCS licenses of 40 MHz if PCS is to be implemented expeditiously and reach its full potential as a large-scale voice and data service available to a mass market.

For the same reasons, PCS Action has further advocated that PCS licensing should be implemented in large areas. Markets that approximate LATAs, MSAs (metropolitan statistical areas), RSAs (rural service areas), and BTAs (basic trading areas) fall far short of the large service areas needed for effectual deployment of PCS. Moreover, PCS Action has advocated that there should be no more than three PCS licenses per market.

PCS Action also has argued that, to encourage new competition in mobile telecommunications, the Commission should place a single, reasonable restriction on the eligibility of cellular telephone companies for new PCS licenses.

Specifically, we have recommended that cellular companies be eligible for PCS licenses within their existing service regions only in cases where such companies control cellular telephone access to 20 percent or less of the population. We have proposed that cellular companies be eligible for PCS licenses without restriction outside their cellular service regions.

In order to proceed with the rapid deployment of PCS, and in an effort to help the Commission resolve various PCS spectrum assignment issues, PCS Action now proposes the following formulation for PCS licensing:

- 1) Two 40 MHz PCS licenses should be awarded for large license areas. Cellular companies could bid for either of these licenses if they control less than 20 percent of the population in the service area.

- 2) Spectrum should be allocated for unlicensed PCS.

- 3) Spectrum may also be made available to other services and providers including small businesses, minority- and women-owned enterprises, and rural telephone companies.

- 4) The new competitors referenced in Points 1 through 3 above should have first priority for PCS spectrum, as the National Telecommunications and Information Administration, the Department of Justice, and the General Accounting Office have all recommended.

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### **ELIGIBILITY TO BID FOR PCS LICENSES**

PCS Action believes that Congress and the FCC must take steps to ensure that PCS is a competitive service providing diversity in wireless communications. Because competition is nullified when an entity is matched up against itself, PCS Action believes that cellular incumbents and their affiliates should be free to apply for PCS licenses anywhere in the country except in their home region. In its home region, a cellular incumbent or its affiliate should be able to apply for a PCS license only if the applicant serves less than 20 percent of the population to be served by the PCS license.

PCS Action's position on cellular eligibility falls squarely within the mainstream of the recommendations of key federal agencies, which uniformly favor prohibiting cellular companies from bidding on PCS licenses covering their own service areas:

#### **National Telecommunications and Information Administration:**

"[W]e recommend that the Commission promote competition among PCS and cellular providers by initially prohibiting the acquisition of PCS licenses by cellular providers in their own service areas . . . . "[T]he Commission should review this limitation, in light of subsequent market developments, three years after initially assigning PCS licenses."<sup>1/</sup>

#### **U.S. Department of Justice:**

"[T]he FCC should not at this time permit any firm to control both a cellular and a PCS license in the same geographic area. That restriction, which should be reexamined in a definite time period (e.g., four years), we believe, should apply equally to both wireline and non-wireline cellular licensees."<sup>2/</sup>

#### **U.S. General Accounting Office:**

"In allocating the spectrum and granting licenses for the new personal communications services, the FCC should consider establishing a policy that gives first preference to firms that are not current cellular telephone service providers in a given market area . . . ."<sup>3/</sup>

1/ Comments of the National Telecommunications and Information Administration at 27, FCC GEN Dkt. No. 90-314 & ET Dkt. No. 92-100 (Nov. 9, 1992).

2/ Comments of the U.S. Department of Justice at 29-30, FCC GEN Dkt. No. 90-314 & ET Dkt. No. 92-100 (Nov. 9, 1992).

3/ U.S. General Accounting Office, "Telecommunications: Concerns About Competition in the Cellular Telephone Service Industry" at 42 (GAO/RCED-92-220 July 1992).

# U.S. Could Win Big in Auction of Airwaves

By ANTHONY RAMIREZ

Tucked within the giant tax bill passed by Congress is a revolutionary proposal to auction off part of the nation's airwaves for the first time.

The frequencies will be used to help start a new personal communications services industry that uses new wireless technologies, and their sale may fetch far more than even the \$10 billion the Government is conservatively estimating.

The personal communications services include smaller, lighter handheld telephones, pagers and other devices not yet invented, principally for want of a designated band of radio frequency. Entrepreneurs in the personal communications business, possibly in a bit of exaggeration, say the industry that could result from using the new frequency spectrum could exceed \$200 billion.

## Worth Billions to Industry

Similar radio frequencies make possible radio, television, cellular telephones and pagers. The assignment of parts of the electromagnetic spectrum in the past has meant billions of dollars for the huge broadcast industries that provide these services but little for the cash-strapped United

## States Treasury.

These radio, television and cellular frequencies have been given away by lottery or after hearings, and the Government has collected only nominal charges for administrative fees.

Under legislation passed by the House on Thursday and the Senate Friday, the Congressional Budget Office estimates that the Government might reap \$10.2 billion from the sale of frequencies in other parts of the electromagnetic spectrum.

But if the record of cellular telephones and, more recently, specialized mobile radio, is any guide, the Government may gain several times that figure.

Estimates as high as \$40 billion are even considered fairly conservative, industry analysts said, because the Government is auctioning off a large portion of the spectrum, up to seven times more than that allocated to the cellular-telephone industry, which now has 11 million subscribers.

## Reassigning Some Users

About 340 million hertz of the radio frequency spectrum will be opened for possible commercial use by the Government through the auction, almost seven times the 50 million hertz of spectrum allotted to the cellular telephone industry.

Several factors will affect the value of the spectrum to be auctioned. The most important, the spectrum size and geographical scope of the licenses, have not been determined. A license to use 10 million hertz in an area that stretched from Boston to Washington would fetch a far higher bid than 2 million hertz for Montauk, L.I.

Not all of the 340 million hertz of spectrum will be put up for sale and some will continue to be used by the Government. Other parts will require current users of certain sections of the spectrum, primarily electric utilities and police and fire departments, to go shift to new frequencies, requiring lengthy regulatory hearings and Government compensation for the inconvenienced license holders.

The spectrum potentially opened up to commercial use will be microwave frequencies, which are higher than 600 million hertz range for cellular telephones.

Frequencies for personal communication services are scheduled for 1850 to 1990 million hertz. An additional 200 million hertz is yet to be determined, but most of it is likely to come from frequencies below 1850 million hertz, according to PCS Action, a lobbying group.